



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/650,459

08/27/2003

Jerome Fournier

979-032

7120

7590

05/30/2006

SOFER & HAROUN, L.L.P.

Suite 910

317 Madison Avenue

New York, NY 10017

EXAMINER

VARGOT, MATHIEU D

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 05/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/650,459	Applicant(s) FOURNIER ET AL.	
	Examiner Mathieu D. Vargot	Art Unit 1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1.The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by PCT Publication WO 00/56777 (see Kim et al, USP 6,563,994) essentially for reasons of record noting the following. While applicant submits that the system of the applied PCT publication is not that of the instant, it is submitted that such is not persuasive. The apparatus claims only require that they be capable of performing the method of claim 1, which PCT –777 can do. Note that claim 1 only requires drawing “said preform”, and **not** that such preform is in liquid state when it is drawn. Hence, for this reason alone, it is submitted that the claims are anticipated. Also, the structure required in claim 7 does not involve any drawing mechanisms, and hence it is not material to the patentability of the instant claims that PCT –777 happens to solidify the liquid preform prior to drawing same.

2.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT Publication WO 00/56777 (see Kim et al, USP 5,563,994) essentially for

reasons of record as set forth in paragraph 1, supra and paragraph 3 of the previous action.

3. Claims 1-6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT Publication WO 00/56777 (see Kim et al, USP 6,563,994) in view of Perrin et al (col. 3, line 44 through col. 4, line 43; see Figure 1) for reasons of record as set forth in paragraph 1, supra and paragraph 4 of the previous action. Newly added claim 12 is rejected for reasons of record, PCT -777 teaching the rotation with the vibration having been submitted to be well known.

4. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT Publication WO 00/56777 (see Kim et al, USP 6,563,994) in view of Perrin et al (col. 3, line 44 through col. 4, line 43; see Figure 1).

In view of applicant's arguments concerning a liquid preform being drawn, the apparatus claims have been additionally rejected under 103 with the drawing of Perrin considered to be a liquid drawing system. Certainly, there is nothing in the instant specification to distinguish the drawing in Perrin from the instant drawing and hence it is submitted that Perrin teaches a liquid drawing in the sense intended by applicant.

5. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant argues that PCT -777, in solidifying the liquid preform prior to drawing, cannot be applicable against the instant claims in a 102 or 103 rejection. First of all, it is maintained that the claims do not expressly require that a **liquid** preform be drawn. It is clear that the preform be formed as a liquid—by the movement of the containers—and

that is exactly what PCT –777 does. Note that claim 1 requires that “said preform” be drawn, not “said liquid preform”. Since it is customary in this art to solidify liquid preforms prior to drawing same, it is believed that claim 1 would be interpreted by one of ordinary skill in the art as being inclusive of drawing a solidified preform. Applicant argues that such is not the case, but does not amend the claims to clearly recite that the drawing of the preform occurs when it is still liquid. Hence, a 103 rejection has been additionally made with the PCT –777 in combination with Perrin et al concerning the apparatus claims. While applicant argued against the combination, and in fact stated that Perrin et al would be the closest prior art (bottom of page 11 of the amendment), such is simply not agreed with. Clearly, the inventive concept of producing the fiber from a liquid preform employing a step with substantially no flow of the liquid compositions along the preform formation system is met by PCT –777, and this reference would hence constitute the closest prior art. The fact that PCT –777 later solidifies the liquid preform for drawing is submitted to have been something that one of ordinary skill in the art would have known to modify should one desire to perform the drawing of the preform while it is still in a liquid state. This is shown by Perrin et al.

6.THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the


shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
May 25, 2006


Mathieu D. Vargot
Primary Examiner
Art Unit 1732

5/25/06